

GENERAL NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

INVITATION FOR PUBLIC COMMENTS DRAFT REGULATIONS RELATING TO SEXUAL OFFENCES COURTS: CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT, 2007 (ACT NO. 32 OF 2007)

1. The Department of Justice and Constitutional Development invites interested parties to submit written comments on the proposed draft Regulations relating to Sexual Offences Courts, 2015 (the draft Regulations).
2. The Judicial Matters Second Amendment Act, 2013 (Act No. 43 of 2013) amends the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), to enable the Minister of Justice and Correctional Services to—
 - (a) designate, by notice in the *Gazette*, courts as sexual offences courts to deal with sexual offences cases; and
 - (b) make regulations necessary to give effect to the designated sexual offences courts, including the requirements for the efficient and effective functioning thereof.
3. In preparing the proposed draft Regulations, the recommendations contained in the Report on the Re-establishment of Sexual Offences Courts compiled by the Ministerial Advisory Task Team on the Adjudication of Sexual Offences Matters (the Matso-report), were taken into account.
4. The draft Regulations focus on elements of efficiency and effectiveness of the sexual offences courts. The draft Regulations aim to provide for protective measures for victims to be available at designated courts and also focus on the needs of persons with disabilities. The draft Regulations provide for basic requirements before a court may be designated as a sexual offences court and advanced requirements, which must be realized progressively.
5. A copy of the draft Regulations is available on the website of the Department at <http://www.justice.gov.za>. The Matso-report is available on the website of the Department at the following address: <http://www.justice.gov.za/vg/sxo-info.html>
6. The comments on the draft Regulations must be submitted to Ms A Van der Walt, on or before 30 October 2015. The contact details are:
 - (a) Postal address:
The Director-General: Justice and Constitutional Development
Private Bag X 81
Pretoria
0001;
 - (b) e-mail address:
alvanderwalt@justice.gov.za
 - (c) Fax nr:
0866480963
7. Further information can be obtained from Ms A van der Walt at 012 406 4767 or Ms I Botha at 012 406 4756.

GOVERNMENT NOTICE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2015

**CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT
ACT, 2007 (ACT NO. 32 OF 2007): REGULATIONS RELATING TO SEXUAL
OFFENCES COURTS**

The Minister of Justice and Correctional Services has, under section 67 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) and in consultation with the Chief Justice, made the regulations in the Schedule.

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**CHAPTER I
DEFINITIONS**

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise indicates—

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"court preparation officer" means the incumbent of a post of preparation officer created on the establishment of a Director of Public Prosecutions;

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"designated court" means a court designated as a sexual offences court by the Minister by Notice in the *Gazette* under section 55A of the Act;

"Director-General" means the Director-General of the Department of Justice and Constitutional Development;

"FCS Unit" means the Family Violence, Child Protection and Sexual Offences Unit established within the South African Police Service;

"forensic social worker" means a forensic social worker appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995);

"heads of the various courts" means in respect of—

- (a) the High Court of South Africa, the Judge President of the Division;
- (b) a court for a regional division, the Regional Court President; and
- (c) a court for a district, the head of the administrative region contemplated in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944);

"intermediary" means a person appointed in terms of section 170A(1) of the Criminal Procedure Act;

"Legal Aid South Africa Act" means the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014);

"National Commissioner" means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution;

"National Qualifications Framework Act" means the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);

"older persons" means a person who, in the case of—

- (a) a male, is 65 years of age or older; and
- (b) a female, is 60 years of age or older.

"relevant functionaries" means the National Commissioner, the National Director of Public Prosecutions, the Director-General of the Department of Social Development and the Director-General of the Department of Health;

"sexual offence" for purposes of these Regulations, includes any offence referred to in section 55A of the Act;

"South African Qualifications Authority" means the South African Qualifications Authority contemplated in the National Qualifications Framework Act; and

"witness" means a witness for the State.

Application of Regulations

2. These Regulations apply to a designated court.

CHAPTER II REQUIREMENTS FOR DESIGNATED COURT

Requirements for designated court

- 3.** (1) A designated court must comply with the following requirements:
- (a) A designated court must have the facilities provided for in Chapter III of these Regulations;
 - (b) a designated court must have the devices and equipment provided for in Chapter IV of the Regulations;
 - (c) the services provided for in Chapter V of the Regulations must be rendered at a designated court;
 - (d) the persons involved in the investigation of and proceedings in respect of a sexual offence in a designated court must comply with the requirements provided for in Chapter VI of the Regulations; and
 - (e) the proceedings in a designated court must comply with the special requirements provided for in Chapter VII of the Regulations.

(2) Subregulation (1) does not preclude a designated court from dealing with a sexual offences case if, after its designation, it does not comply with any of the requirements referred to in subregulation (1).

(3) It is the responsibility of all the functionaries and persons working at a designated court to report non-compliance with a requirement referred to in subregulation (1), to the relevant functionary, person or institution.

(4) The functionary, person or institution receiving the report referred to in subregulation (3), must take immediate steps to ensure compliance with the requirement in question.

(5) The persons or functionaries referred to in regulations 5, 8, 11, 12, 15, 18, 19, 23, 25, 28, 31, 33, 35, 38, 39, 41, 45, 50, must take all reasonable steps to ensure that the advanced requirements provided for in these Regulations are realised progressively.

CHAPTER III FACILITIES AT DESIGNATED COURT

Basic requirements regarding facilities

- 4.** A designated court must have at least the following facilities:
- (a) A waiting area for child witnesses as provided for in regulation 10;
 - (b) a waiting area for adult witnesses as provided for in regulation 10;
 - (c) a testifying room as provided for in regulation 13; and
 - (d) a court room as provided for in regulation 14.

Advanced requirements regarding facilities

5. Subject to regulation 3(5), the Director-General must ensure that a designated court has the following facilities:

- (a) A consulting room as provided for in regulation 12;
- (b) a court preparation room;
- (c) restrooms for witnesses;
- (d) an office for the court preparation officer;
- (e) an office for the intermediary;
- (f) an office for the designated probation officer; and
- (g) an office for the prosecutor dealing with sexual offences cases.

General requirements regarding facilities

6. (1) The facilities referred to in regulations 4(a), 4(c), 5(a), 5(b), 5(c) and 5(e) must be child-friendly.

(2) The facilities referred to in regulations 4 and 5 must be fully accessible to persons with disabilities and comply with section 9(c) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000).

(3) The facilities referred to in regulations 4(b) to (d) and 5(a) to (c), must accommodate the needs of older persons.

(4) The court manager at a designated court must ensure that there is proper and accessible signage of the location of facilities referred to in regulations 4 and 5 at such a court.

(5) The court manager of a designated court must ensure that the facilities referred to in regulations 4 and 5 are available, allocated and furnished as required in terms of these Regulations.

Basic requirements regarding situation of facilities

7. (1) A court preparation officer must accompany a witness to any of the facilities referred to in regulations 4 and 5, if there is no separate entrance to the court building for witnesses.

(2) The court preparation officer must accompany a witness to and from any of the facilities referred to in regulations 4 and 5, if there is no direct access to and from any of these facilities.

Advanced requirements regarding situation of facilities

8. (1) Subject to regulation 3(5) and subregulation (2), the Director-General must ensure that a designated court has a separate entrance to the court building for witnesses and that the facilities referred to in regulations 4 and 5 are in close proximity to such entrance.

(2) If it is not possible to create a separate entrance to the court building for witnesses, the facilities contemplated in regulations 4 and 5 must be in close proximity to the entrance.

(3) The facilities referred to in regulation 4(a) to (d) and 5(a) to (d) must be situated at such a place and in such a manner that there is direct access to and from all the facilities to avoid contact with an accused person.

(4) Witnesses with disabilities must have equal access and protection.

Use of facilities

9. (1) (a) Subject to paragraph (d), the facilities referred to in regulation 4(a) and (b) may only be used by—

- (i) a witness; and
- (ii) if there is space available, the persons supporting a witness but subject to a maximum of three persons, unless the witness is a person with a disability in which case the limitation does not apply.

(b) The facilities referred to in regulation 5(a) and (b) may only be used by—

- (i) a witness; and
- (ii) any court official or other government official whose involvement is required in the proceedings in respect of a sexual offence.

(c) The facilities referred to in regulation 5(c) may only be used by—

- (i) a witness; and
- (ii) the persons supporting a witness.

(d) The court preparation officer must, if there is on a particular day not sufficient space in the waiting area for adult witnesses referred to in regulation 4(b), determine, after having considered the following factors, whom of the witnesses may use the waiting area:

- (i) The nature of the evidence to be given by the witness;
- (ii) the profile of the witness, including the age and level of vulnerability of the witness; and
- (iii) any other factor that the court preparation officer may deem relevant for this purpose.

(2) A court preparation officer must—

- (a) ensure that no person other than the persons referred to in subregulation (1) make use of any facility referred to in that subregulation; and
- (b) direct any person not authorised to use a facility referred to in subregulation (1) to leave the facility immediately.

(3) When a witness is about to give evidence or is giving evidence in a testifying room, the intermediary must—

- (a) ensure that no person whose presence is not required in the testifying room enters the testifying room; and
- (b) direct any unauthorised person who entered the testifying room, to leave the testifying room immediately.

Basic requirements regarding waiting areas

10. (1) The waiting areas for witnesses referred to in regulation 4(a) and (b) must be furnished in a manner aimed at the following:

- (a) Setting a witness at ease;
- (b) ensuring proper ventilation; and
- (c) being accessible to witnesses with disabilities.

(2) The waiting areas referred to in subregulation (1) must be furnished in a manner taking into account the following:

- (a) The different ages of child and adult witnesses;
- (b) persons other than witnesses, namely the persons referred to in regulation 9(1)(a), may use the waiting areas;
- (c) witnesses and the persons referred to in regulation 9(1)(a) may have to spend lengthy periods of time in the waiting areas; and
- (d) the safety of witnesses, in particular child witnesses.

(3) The court manager of a designated court must ensure that in the waiting areas referred to in subregulation (1)—

- (a) information, accessible to persons with disabilities and older persons, about court procedures, the role of a witness, witness fees payable to witnesses and any other relevant court service; and
- (b) toys and educational items for children, are available, having regard to the different age groups of witnesses and the other persons referred to in regulation 9(1)(a) and the needs of witnesses.

Advanced requirements regarding waiting areas

11. (1) Subject to regulation 3(5), the Director-General must ensure that the waiting areas for witnesses referred to in regulation 4(a) and (b) are designed in a manner aimed at the following:

- (a) Setting a witness at ease;
- (b) ensuring proper ventilation; and
- (c) being accessible to witnesses with disabilities.

(2) The waiting areas referred to in subregulation (1) must be designed in a manner taking into account the following:

- (a) The different ages of child and adult witnesses;
- (b) persons other than witnesses, namely the persons referred to in regulation 9(1)(a), may use the waiting rooms;
- (c) witnesses and the persons referred to in regulation 9(1)(a) may have to spend lengthy periods of time in the waiting rooms; and
- (d) the safety of witnesses, in particular child witnesses.

Advanced requirements regarding consulting rooms

12. (1) Subject to regulation 3(5), the Director-General must ensure that a consulting room referred to in regulation 5(a) has the following features in addition to the features referred to in regulations 10 and 11:

- (a) It must be designed in such a manner so as to promote privacy;
- (b) it must, where practically possible, have more than one cubicle or area where witnesses can be consulted;
- (c) a consultation with a witness in a cubicle or area may not be audible to anyone other than those involved in the consultation; and
- (d) the cubicle or area must be spacious in order to accommodate a wheelchair user and his or her personal assistant.

(2) A consulting room referred to in subregulation (1) must be furnished in a manner that will not distract a witness during a consultation with the prosecutor.

Basic requirements regarding testifying rooms

13. A testifying room referred to in regulation 4(c) must have the following features in addition to the features contemplated in section 170A(3)(a) to (c) of the Criminal Procedure Act and regulation 11:

- (a) It must be conducive to the proceedings without compromising the prestige of the court;

- (b) the lay-out of the testifying room must facilitate the enhancement of the quality of the evidence and set the witnesses at ease;
- (c) it must be furnished in a manner that will not distract a witness who is giving evidence; and
- (d) it must have appropriate lighting so that clear images can be conveyed to the court.

Basic requirement regarding court rooms

14. (1) A court room referred to in regulation 4(d) must, in addition to the features contemplated in section 170A(3)(c) of the Criminal Procedure Act, comply with the following requirements:

- (a) The lay-out of the court room must facilitate the enhancement of the quality of the evidence of witnesses of all ages, in particular when a witness gives evidence by means of closed circuit television or similar electronic media in terms of sections 158 and 170A of the Criminal Procedure Act;
- (b) for the purposes of a witness who is not allowed to give evidence by means of closed circuit television or similar electronic media in terms of section 158 of the Criminal Procedure Act, the accused dock in a court room must—
 - (i) not be positioned in close proximity to a witness; and
 - (ii) where practically possible, be positioned in such a manner that a witness does not have to walk past the accused person to get to the witness dock; and
- (c) the microphone to be used by the legal representative of the accused must not be positioned between the prosecutor and the witness.

(2) The lay-out of a court room referred to in subregulation (1) must take into account the right of equality and dignity of persons with disabilities and older persons.

Advanced requirements regarding court preparation rooms

15. (1) Subject to regulation 3(5), the Director-General must ensure that a court preparation room referred to in regulation 5(b) has the following features in addition to the features referred to in regulation 10:

- (a) It must be designed in such a manner so as to promote privacy; and
- (b) it must not be accessible to the public, the accused and the defense.

(2) The court manager of a designated court must ensure that the court preparation room referred to in subregulation (1)—

- (a) is furnished in a child-friendly manner;

- (b) have lockable cabinets to store the court preparation devices and equipment and refreshments; and
- (c) has a large notice board on which the court preparation devices and equipment can be displayed.

(3) The court preparation room referred to in subregulation (1) must be spacious in order to accommodate a wheelchair user and his or her personal assistant.

(4) A court preparation room referred to in subregulation (1) must be furnished in a manner that will not distract a witness during a consultation with the court preparation officer.

CHAPTER IV DEVICES AND EQUIPMENT AVAILABLE AT COURT

Basic requirements regarding devices and equipment for testifying rooms

- 16.** (1) A testifying room referred to in regulation 4(c) must have—
- (a) the devices and equipment contemplated in section 170A(3)(c) of the Criminal Procedure Act and be installed or set up in accordance with the provisions of that section; and
 - (b) any other devices and equipment required for the giving of evidence by witnesses.

(2) The devices and equipment referred to in subregulation (1) must be of such quality so as to enable the efficient and effective giving of evidence by witnesses.

(3) When procuring and installing the devices and equipment referred to in subregulation (1) the needs and requirements of witnesses with disabilities must be taken into account in order to—

- (a) ensure the efficient and effective giving of evidence by these persons; and
- (b) avoid secondary traumatisation for these persons.

Basic requirements regarding devices and equipment for court rooms

17. (1) A court room referred to in regulation 4(d) must have the following devices and equipment:

- (a) The devices and equipment contemplated in section 170A(3)(c) of the Criminal Procedure Act; and
- (b) other devices and equipment required for the giving of evidence by witnesses.

(2) The devices and equipment referred to in subregulation (1) must be of such quality so as to enable the efficient and effective giving of evidence by witnesses.

(3) When procuring and installing the devices and equipment referred to in subregulation (1) the needs and requirements of witnesses with disabilities must be taken into account in order to—

- (a) ensure the efficient and effective giving of evidence by these persons; and
- (b) avoid secondary traumatisation for these persons.

Advanced requirements regarding devices and equipment for court preparation programme

18. The National Director of Public Prosecutions must ensure that devices and equipment are provided for the purposes of the court preparation programme for witnesses, referred to in regulation 21 and are available at a designated court.

Advanced requirements regarding anatomical dolls

19. (1) Subject to regulation 3(5), a set of anatomical dolls, manufactured in accordance with the specifications determined in terms of subregulation (10), must be made available to the following persons:

- (a) A prosecutor at a designated court;
- (b) an intermediary appointed by a designated court; and
- (c) a forensic social worker or, if no forensic social worker is appointed, an appropriately qualified victim empowerment volunteer, if available, or a specially trained investigating officer from a FCS Unit at the police station serving a designated court.

(2) A set of anatomical dolls consists of the following:

- (a) A doll representing a male child;
- (b) a doll representing a female child;
- (c) a doll representing a male adult;
- (d) a doll representing a female adult;
- (e) a doll representing an aged male; and
- (f) a doll representing an aged female.

(3) (a) The National Director of Public Prosecutions must ensure that a prosecutor at a designated court has a set of anatomical dolls and that he or she has received training in the use thereof.

(b) The Director-General must ensure that an intermediary at a designated court has a set of anatomical dolls and that he or she has received training in the use thereof.

(c) The National Commissioner must ensure that a police station serving a designated court has a set of anatomical dolls to be used by the persons referred to in subregulation (1)(c) and that such persons have received training in the use thereof.

(4) An anatomical doll must be a replica of the external human body, including the genital organs.

(5) The anatomical dolls must be of different sizes depicting different ages.

(6) The hair and other facial features of an anatomical doll, which may not express a negative emotion, must correlate with the sex and age of the doll.

(7) The sexual features of an anatomical doll must correlate with the size of the doll and the sex and age of the person represented by the doll.

(8) An anatomical doll must be designed in such a manner and be made of material that allows the witness to manipulate the doll in order to demonstrate what has been done to him or her by using the doll.

(9) (a) Subject to paragraph (b), an anatomical doll must always be clothed.

(b) The clothes of an anatomical doll must be age-appropriate and must be made in such a manner so that they can be removed easily by the witness when demonstrating to the persons referred to in subregulation (1) what has been done to him or her at the time of the alleged sexual offence.

(c) An anatomical doll must when not in use, be placed in a lockable cabinet.

(10) Subject to subregulation (11), the Director-General must, with due regard to international standards and specifications, determine the specifications for the anatomical dolls referred to in subregulation (2).

(11) In determining the specifications for the anatomical dolls, the Director-General must consult the National Director of Public Prosecutions.

CHAPTER V SERVICES AVAILABLE AT DESIGNATED COURT

Basic requirements regarding court preparation programme

20. (1) The National Director of Public Prosecutions must ensure that a court preparation programme for witnesses is available at a designated court to prepare witnesses for court proceedings.

(2) A court preparation programme must be conducted by a court preparation officer at a designated court in an area which is not audible to any person other than the persons involved in the court preparation session.

(3) A court preparation officer may not conduct a court preparation programme unless he or she has received training in the court preparation programme referred to in subregulation (2) and regulation 37.

(4) (a) Subject to paragraph (c), a court preparation officer must conduct at least two sessions with a witness who has to testify in a designated court prior to the consultation by the prosecutor with the witness.

(b) A court preparation officer must, during the first session, identify the needs of the witness and inform the—

- (i) the senior public prosecutor and the prosecutor in a sexual offences case; and
 - (ii) the court manager, if his or her intervention is required,
- thereof to ensure that these needs to the extent possible, are met.

(c) A court preparation officer may dispense with the requirement provided for in paragraph (a) if a witness so requests.

(5) A court preparation officer must, during the sessions referred to in subregulation (4)—

- (a) inform a witness about the support services and witness fees available to witnesses and how to access these services;
- (b) explain to the witness his or her rights when in contact with the criminal justice system;
- (c) explain to the witness the court procedures;
- (d) explain to the witness his or her role as a witness and that of the other persons involved in the proceedings;
- (e) give the witness directions to the facilities referred to in regulations 4 and 5;
- (f) take the witness to the court room and, if applicable, to the testifying room where the case will be heard with the aim of familiarising the witness with the court interior and its facilities;
- (g) explain to the witness how the devices in the testifying room function, if a witness is going to give evidence in a testifying room; and
- (h) explain to the witness the role of the intermediary, if an intermediary for the witness has been or may be appointed.

(6) A court preparation officer must inform the prosecutor in a sexual offences case of the outcome of the court preparation session with a view to determining whether the witness is ready to testify in court.

(7) A court preparation officer must, in order to meet the needs of a witness, be available to assist—

- (a) the prosecutor in a sexual offences case when the witness is giving evidence in court; and

(b) an intermediary when the witness is giving evidence in a testifying room but only once the court has adjourned.

(8) An interpreter must be available to assist the court preparation officer, if required.

(9) A court preparation officer must facilitate the making of an impact statement by a complainant for use by the prosecutor but in an area which is not audible to any person other than the persons involved in the court preparation session.

(10) A court preparation officer must conduct a containment session with a witness and caregivers after the witness has testified in court with a view to containing their emotions and the impact of the court process and to provide information on the progress of the case.

(11) A court preparation officer must facilitate the referral of a witness to an appropriate service provider for continuum of care and in compliance with regulation 22(5).

Duties of probation officer designated

21. (1) The Director-General of the Department of Social Development must designate a probation officer for every designated court.

(2) The probation officer designated in terms of subregulation (1) must ensure that the reports required in terms of any legislation, court order or request by the prosecutor, for the purposes of court proceedings in respect of a sexual offence, are available at the court within the required period or on the court date.

(3) A probation officer designated in terms of subregulation (1) must ensure that the reports referred to subregulation (2) meet the required standards.

Basic requirements regarding witness support services

22. (1) (a) The forensic social worker or an appropriately qualified victim empowerment volunteer at a police station serving a designated court, must provide trauma debriefing, containment and victim empowerment support services to a witness after the incident is reported and during the investigation of the case.

(b) A victim empowerment volunteer who provides a service referred to in paragraph (a) may not—

- (i) discuss the merits of the case with a witness;
- (ii) coach a witness or a person supporting a witness; and
- (iii) obtain access to the case docket.

(2) (a) A specially trained investigating officer from a FSC Unit at a police station serving a designated court must ensure that trauma counselling services by an appropriately qualified person are available for a witness after the incident is

reported and during the investigation of the case, if no forensic social worker has been appointed or an appropriately qualified victim empowerment volunteer is not available at a police station.

(b) Trauma counselling services envisaged for a complainant and a witness must focus on the feelings and coping skills of these persons and not on the merits of the case and without altering the perceptions of these persons about the case.

(3) For the purposes of subregulation (2), the Director-General of Social Development or an official delegated by him or her must compile a list of persons or institutions in the Republic providing trauma counselling services to witnesses of sexual offences, which must be submitted to the National Commissioner.

(4) (a) The list referred to in subregulation (3) must—

- (i) identify the service providers rendering trauma counselling services to witnesses of sexual offences;
- (ii) indicate the service points where the services are rendered; and
- (iii) the contact particulars of the service providers.

(b) The list referred to in subregulation (3) must be updated regularly.

(5) The Director-General of Social Development or an official delegated by him or her must ensure that trauma counselling services are available for witnesses of sexual offences in a format accessible to persons with disabilities—

- (a) during the trial at a designated court as requested by the prosecutor in a sexual offences case; and
- (b) after the trial.

(6) The person responsible for arranging the counseling services as provided for in subregulation (5), must consult—

- (a) the persons referred to in subregulations (1) and (2) if he or she has provided or arranged for trauma counselling services for a witness of a sexual offence or any other witness; and
- (b) the prosecutor in a sexual offences case, the court preparation officer and the intermediary; and
- (c) the complainant assistant officer working at a Thuthuzela Care Centre in the area, if there is one,

and obtain the approval of the witness and person supporting the witness.

(7) The National Director of Public Prosecutions or any person delegated by him or her, must ensure that the persons involved in the criminal justice system—

- (a) are aware of the Thuthuzela Care Centres that are in operation;
- (b) know who is providing services at such Centres;
- (c) know what the roles and responsibilities of the service providers are;

- (d) know the nature of the services provided at such Centre; and
- (e) have the contact particulars of the service providers.

(8) The National Director of Public Prosecutions must ensure that there is consistency in the services provided at the Thuthuzela Care Centres.

(9) The National Director of Public Prosecutions or any person delegated by him or her, must ensure that the persons involved in the criminal justice system—

- (a) are aware of the Ke Bona Lesedi Court Preparation programmes that are in operation;
- (b) know who is providing services at these Centers; and
- (c) have the contact particulars of the service providers.

(10) Trauma counseling services in respect of a child witness may be provided by any person appointed to provide trauma counseling services at the school attended by the witness.

(11) The court preparation officer and the intermediary must ensure that water is available for the witnesses and any person accompanying a witness during court hours at the facilities referred to in regulation 4(a) to (d), and 5(a) and (b).

(12) The court manager at a designated court must ensure that arrangements are made to cater for the needs of guide dogs and for other assistive devices of witnesses.

(13) An interpreter must be available to assist during a consultation with a witness, if so required.

(14) The court manager must take reasonable steps to ensure that no child witness, witness with a mental disability or a witness who is an older person, is giving evidence in court on an empty stomach.

Advanced requirements regarding staff and judicial counselling services

23. (1) Subject to regulation 3(5), the Office of the Chief Justice must ensure that counselling services are available for judicial officers presiding in sexual offences cases.

(2) Subject to regulation 3(5), the National Director of Public Prosecutions must ensure that counselling services are available for prosecutors involved in the prosecution of sexual offences cases.

(3) Subject to regulation 3(5), the Director-General must ensure that counselling services are available for court officials involved in court proceedings in respect of sexual offences, other than the persons referred to in subregulations (1) and (2).

Basic requirements regarding intermediary services for witnesses

24. (1) The senior official in charge of the intermediaries at a designated court must ensure that there is a pool of intermediaries, meeting the qualifications determined by the Minister in terms of section 170A(4)(a) of the Criminal Procedure Act, available who can be appointed as intermediaries in sexual offences cases at that court.

(2) The senior official referred to in subregulation (1) at a designated court must take the necessary steps to recruit intermediaries to be appointed on an *ad hoc* basis, if there are not sufficient intermediaries employed at that court.

(3) In recruiting intermediaries to be appointed as provided for in subregulation (2), the senior official referred to in subregulation (1) may—

- (a) consult Government Departments who deal with persons competent to be appointed as intermediaries with a view to obtaining information about procedures and mechanisms available to contact these persons and, if available, the contact particulars of these persons;
- (b) consult professional bodies regulating the professions of persons competent to be appointed as intermediaries for the purposes referred to in paragraph (a); and
- (c) invite persons who meet the qualifications determined by the Minister in terms of section 170A(4)(a) of the Criminal Procedure Act and are willing to be appointed as intermediaries on an *ad hoc* basis, to indicate their interest by—
 - (i) affixing the invitation on the notice board of the designated court;
 - (ii) publishing the invitation in a newspaper circulating in that area;
 - (iii) publishing the invitation in a journal of any professional body referred to in paragraph (b);
 - (iv) publishing the invitation in a newsletter of any Government Department referred to in paragraph (a); and
 - (v) publishing or posting the invitation in any other publication or at any other place.

(4) The senior official referred to in subregulation (1) must keep a database of intermediaries who are available to provide intermediary services at an *ad hoc* basis.

(5) An intermediary must be mindful of the limitations and capacity of a witness giving evidence, having regard to his or her form of vulnerability, age, physical and mental status and stage of development.

(6) An intermediary must request the court for a recess if it appears to him or her that a witness who is giving evidence is fatigued or stressed.

(7) An intermediary must, with the assistance of the court preparation officer, meet the immediate needs of a witness who is giving evidence.

(8) An intermediary must before a witness testifies take the necessary steps to establish a rapport with the witness.

(9) An intermediary must, during court proceedings, inform the court about—

- (a) any change in the physical, emotional or mental behaviour of a witness; and
- (b) any communication problem with a witness.

Advanced requirements regarding intermediary services for witnesses

25. (1) Subject to regulation 3(5), the senior official in charge of the intermediaries at a designated court must ensure that the pool of intermediaries available to be appointed as intermediaries in sexual offences cases at that court, receive the training referred to in subregulation (3).

(2) The senior official referred to in subregulation (1) at a designated court must keep a list of the intermediaries who have received training as provided for in subregulation (3).

(3) Subject to regulation 3(5), Justice College must, in consultation with the Chief Justice and the National Director of Public Prosecutions—

- (a) develop the content of the training programmes, manuals and refresher courses referred to in subregulation (1); and
- (b) determine the duration thereof, where applicable.

(4) Justice College must ensure that the training referred to in subregulation (3) is registered with the South African Qualifications Authority in terms of the National Qualifications Framework Act.

(5) (a) Subject to regulation 3(5), an intermediary must, before the commencement of any proceedings, ensure that the set of anatomical dolls provided for in regulation 18 is complete and in working condition.

(b) An intermediary must, if the set of anatomical dolls is not complete, or if one of these dolls is not in working condition, take the necessary steps to obtain a full set which is in working condition.

Basic requirements regarding operation and repairing of electronic devices in testifying and court rooms

26. (1) The Assistant Director: Court Intermediary at a designated court or a person delegated by him or her must every day, before the commencement of any proceedings, verify that the devices and equipment in the testifying room and court room are functioning properly.

(2) The Assistant Director: Court Intermediary at a designated court or a person delegated by him or her must, upon discovery that a device or equipment in the testifying room or court room is not functioning properly, immediately take the necessary steps to have the problem solved.

(3) Any court official must upon discovery that a device or equipment in the testifying room or court room is not functioning properly, immediately report the matter to the Assistant Director: Court Intermediary at a designated court.

(4) The Assistant Director: Court Intermediary at a designated court must, upon receipt of a notification in terms of subregulation (3), immediately take the necessary steps to have the problem solved.

Basic requirements regarding available information

27. A court manager at a designated court must ensure that educational information on sexual offences is available at a designated court in all the official languages of South Africa in a format accessible to all persons, including persons with disabilities and older persons.

Advanced requirements regarding witness complaints mechanisms

28. (1) Subject to regulation 3(5), the relevant functionaries and the Office of the Chief Justice must create accessible complaints mechanisms to receive complaints from witnesses in sexual offences cases where such mechanisms are not in place.

(2) An official at a designated court who receives a complaint from a witness must—

- (a) refer the witness to the correct person who or institution which will deal with the complaint; and
- (b) provide the witness with the necessary contact particulars of the person or institution.

(3) The person who, or the institution which, receives a complaint in terms of this regulation must, in writing inform the witness who lodged the complaint—

- (a) on a regular basis of the status of the complaint; and
- (b) of the outcome of the complaint.

CHAPTER VI

TRAINING OF PERSONS INVOLVED IN TRIALS OF SEXUAL OFFENCES

Advanced requirements regarding general aspects relating to training

29. (1) In developing the training programmes, manuals and refresher courses required in terms of this Chapter, the following aspects must, where appropriate, be considered for possible inclusion in these programmes and courses, in

addition to the provisions of the Act and the Regulations, National Instructions and Directives made under the Act:

- (a) The management of trauma generally experienced by witnesses of sexual violence;
- (b) the effects of testifying;
- (c) interacting with children;
- (d) child development;
- (e) patterns of disclosure of abuse;
- (f) restorative justice;
- (g) methods and mechanisms to manage and support complainants through the criminal justice process;
- (h) methods and mechanisms accessing the memory of witnesses;
- (i) offender management;
- (j) myths and stereotypes;
- (k) the types and characteristics of paedophiles and serial rapists;
- (l) competency testing in respect of child and mentally retarded witnesses;
- (m) the needs of, working with and the reasonable accommodation of persons with disabilities;
- (n) the dynamics of sexual offences;
- (o) witness profiling; and
- (p) the determination of appropriate support services.

(2) Training programmes, manuals and refresher courses required in terms of this Chapter must be developed having regard to the following:

- (a) The roles and responsibilities of the functionaries involved in the trial of sexual offences cases;
- (b) the level of experience and knowledge of the functionaries referred to in paragraph (a) in the trial of sexual offences cases;
- (c) the degree and nature of contact of the functionaries referred to in paragraph (a) with witnesses who must testify in sexual offences cases; and
- (d) the level of sensitivity which will be required of the functionaries referred to in paragraph (a) in dealing with witnesses who must testify in sexual offences cases.

(3) Training programmes, manuals and refresher courses required in terms of this Chapter may be presented in any form.

(4) Subject to regulation 3(5), the relevant functionaries and the heads of the various courts must arrange for inter-sectoral training on aspects relating to sexual offences.

(5) The training programmes, manuals and refresher courses required in terms of these Regulations must—

- (a) be developed in addition to the training courses referred to in section 66 of the Act; and
- (b) be tabled in Parliament within six months after the commencement of these Regulations.

Basic requirements regarding training of presiding officers

30. (1) A presiding officer may only preside over cases involving sexual offences in a designated court, in the case of a—

- (a) judge, if he or she, in the opinion of the Judge President of the relevant Division of the High Court of South Africa, has sufficient experience to deal with these offences and has, on account thereof, been designated for this purpose by that Judge President;
- (b) magistrate of a regional division, if he or she, in the opinion of the Regional Court President of the relevant regional division, has sufficient experience to deal with these offences and has, on account thereof, been designated for this purpose by that Regional Court President; or
- (c) magistrate, if he or she, in the opinion of the Chief Magistrate of the relevant district has sufficient experience to deal with these offences and has, on account thereof, been designated for this purpose by that head.

(2) (a) The Office of the Chief Justice must compile and keep a list of every judge who has been designated as referred to in subregulation (1)(a).

(b) The Magistrates Commission must compile and keep a list of every magistrate who has been designated as referred to in subregulations (1)(b) and (1)(c).

Advanced requirements regarding training of presiding officers

31. (1) Subject to regulation 3(5), a presiding officer may only preside over cases involving sexual offences in a designated court if he or she has, after the commencement of these Regulations, received the training referred to in subregulation (3);

(2) (a) The Office of the Chief Justice must compile and keep a list of every judge who has been trained as referred to in subregulation (1).

(b) The Magistrates Commission must compile and keep a list of every magistrate who has been trained as referred to in subregulation (1).

(3) Subject to regulation 3(5), the South African Judicial Education Institute established in terms of section 3 of the South African Judicial Education Institute Act, 2008 (Act No. 14 of 2008) must—

- (a) develop training programmes for the purposes of subregulation (1);

- (b) develop refresher courses referred to in subregulation (4);
- (c) determine, where applicable, the duration of the training programmes and the refresher courses; and
- (d) ensure registration of the training with the South African Qualifications Authority in terms of the National Qualifications Framework Act.

(4) A presiding officer referred to in subregulation (1) must attend refresher courses as often as determined by the South African Judicial Education Institute.

Basic requirements regarding training of prosecutors

32. (1) A prosecutor may only appear on behalf of the State in a sexual offences case in a designated court if he or she, in the opinion of the relevant Director of Public Prosecutions has sufficient experience to deal with sexual offences cases and has, on account thereof, been designated for this purpose by that Director.

(2) The relevant Director of Public Prosecutions must compile and keep a list of every prosecutor who has been designated as referred to in subregulation (1).

Advanced requirements regarding training of prosecutors

33. (1) Subject to regulation 3(5), a prosecutor may only appear on behalf of the State in a case involving a sexual offence in a designated court if he or she has, after the commencement of these Regulations, received the training referred to in subregulation (3),

(2) The relevant Director of Public Prosecutions must compile and keep a list of every prosecutor who has been trained as referred to in subregulation (1).

(3) Subject to regulation 3(5), the National Director of Public Prosecutions must—

- (a) develop training programmes for the purposes of subregulation (1);
- (b) develop refresher courses referred to in subregulation (4);
- (c) determine, where applicable, the duration of the training programmes and the refresher courses; and
- (d) ensure registration of the training with the South African Qualifications Authority in terms of the National Qualifications Framework Act.

(4) A prosecutor referred to in subregulation (1) must attend refresher courses as often as determined by the National Director of Public Prosecutions.

Basic requirements regarding training of interpreters

34. (1) The court manager at a designated court must, as far as possible, assign experienced interpreters permanently employed by the Department of Justice and Constitutional Development to interpret in sexual offences cases.

(2) The court manager at a designated court must ensure that there is a pool of interpreters in foreign languages and South African Sign Language available for appointment on an *ad hoc* basis as interpreters in sexual offences cases.

Advanced requirements regarding training of interpreters

35. (1) (a) Subject to regulation 3(5), the court manager at a designated court must ensure that every interpreter assigned in terms of regulation 33(1) to interpret in sexual offences cases—

- (i) receives a manual referred to in subregulation (2); and
- (ii) has acquainted himself or herself with the contents of the manual.

(b) Subject to regulation 3(5), the court manager at a designated court must ensure that there is a pool of interpreters, who have acquainted themselves with the contents of the manual referred to in subregulation (2), available for appointment on an *ad hoc* basis as interpreters in sexual offences cases if the assigned interpreters are not available.

(2) (a) Subject to regulation 3(5), Justice College must develop a manual for interpreters who are assigned in terms of regulation 33(1) to interpret in sexual offences cases in order to ensure that the interpreters have a basic understanding of the Act and the relevant aspects referred to in regulation 29(1).

(b) The court manager at a designated court must make available the manual referred to in paragraph (a), to the interpreters referred to in regulation 34(2), to give them an opportunity to peruse the manual if circumstances permit.

Basic requirements regarding training of investigating officers

36. (1) Only police officers at Client Service Centres and specially trained investigating officers from a FCS Unit may deal with complaints relating to sexual offences cases or investigate such offences.

- (2) The National Commissioner must—
- (a) develop training programmes for the purposes of subregulation (1);
 - (b) develop refresher courses referred to in subregulation (4);
 - (c) determine the duration, where applicable, of the training programmes and the refresher courses; and

(d) ensure registration of the training with the South African Qualifications Authority in terms of the National Qualifications Framework Act.

(3) The Station Commander of a police station which serves a designated court, must compile a list of trained police officers at Client Service Centres and investigating officers referred to in subregulation (1).

(4) Police officers at Client Service Centres and investigating officers must attend refresher courses as often as determined by the National Commissioner.

Basic requirements regarding training of court preparation officers

37. (1) The National Director of Public Prosecutions must—

(a) develop training programmes for court preparation officers referred to in regulation 20(3);

(b) develop refresher courses for court preparation officers referred to in subregulation (3);

(c) determine the duration, where applicable, of the training programmes and refresher courses; and

(d) ensure registration of the training with the South African Qualifications Authority in terms of the National Qualifications Framework Act.

(2) The National Director of Public Prosecutions must compile a list of the court preparation officers who have received training referred to in regulation 20(3).

(3) Court preparation officers must attend refresher courses as often as determined by the National Director of Public Prosecutions.

Advanced requirements regarding training of probation officers and other social workers

38. (1) Subject to regulation 3(5), the Director-General of the Department of Social Development must ensure that—

(a) probation officers who are required to submit reports referred to in regulation 21 to a court; and

(b) other social workers who are required to render counselling services to witnesses in sexual offences cases,

who are in his or her Department's employment, receive the necessary training to be able to carry out their responsibilities efficiently and effectively.

(2) Subject to regulation 3(5), the Director-General referred to in subregulation (1) must ensure that appropriate training programmes and refresher courses are developed for the persons referred to in subregulation (1)(a) and (b).

CHAPTER VII
SPECIAL ARRANGEMENTS FOR HEARINGS BY DESIGNATED COURT

Advanced requirements regarding special arrangements

39. (1) Subject to regulation 3(5), the relevant functionaries and the heads of the various courts must, each within his or her area of responsibility, determine cycle times for the finalisation of the services done in the management of different sexual offences cases, in the absence of any period determined by law.

(2) Different cycle times may be determined for different categories of sexual offences cases.

(3) The relevant functionaries and the heads of the various courts must monitor compliance with these cycle times and—

- (a) determine any patterns of non-compliance;
- (b) in the case of non-compliance, take remedial steps, including the steps referred to in regulation 45; and
- (c) submit annual reports thereon to the Committee established in terms of section 63 of the Act.

Basic requirements regarding special arrangements in respect of investigating officers and forensic social workers

40. (1) Only the following persons may interview a witness in a sexual offence case and obtain his or her statement:

- (a) A forensic social worker;
- (b) a trained police officer at a Client Service Centre; or
- (c) a specially trained investigating officer from a FCS Unit, stationed at the police station serving a designated court.

(2) The investigating officer must, whenever it is possible, assist a witness with transport to a designated court.

(3) A witness may not be transported with the accused in the same vehicle.

(4) The investigating officer must when a DNA analysis is required, take or send the relevant bodily samples to the laboratory at the first possible opportunity.

(5) Unless exceptional circumstances exist, a witness in a sexual offences case must be subpoenaed to secure his or her attendance at a designated court.

- (6) The investigating officer in a sexual offences case must—
- (a) diarise the next court date of the case; and

(b) diarise the date on which the police docket must be lodged at the designated court.

(7) The investigating officer in a sexual offence case must ensure that the police docket is lodged at the designated court at the date specified in the docket by a prosecutor or at least three working days before the next court appearance and inform the complainant thereof.

(8) (a) The immediate supervisor of an investigating officer in a sexual offence case must certify that the requests of the prosecutor in terms of regulation 42(6) have been complied with before a police docket is lodged at a designated court.

(b) The immediate supervisor of an investigating officer must, where any request referred to in paragraph (a) has not been complied with, take the necessary steps to ensure compliance with the instructions in order to prevent an unnecessary postponement of the case.

(c) The investigating officer must immediately inform the prosecutor of the case in question of any request referred to in paragraph (a) that has not been complied with in order to allow the prosecutor to take the necessary steps, where possible, to prevent an unnecessary postponement of the case.

(9) The investigating officer in a sexual offence case must take reasonable steps to ensure that the reports, including ballistic and forensic reports, required for the purposes of a trial of a sexual offence or proceedings incidental thereto are available before the trial date.

(10) The investigating officer in a sexual offence case must at all times attend court proceedings in connection with that case, unless excused by the prosecutor.

Advanced requirements regarding special arrangements in respect of investigating officers

41. (1) Subject to regulation 3(5), the National Commissioner must create an electronic system to be used by investigating officers in sexual offences cases in order to track the development of such cases.

(2) The investigating officer in a sexual offences case must use the system provided for in subregulation (1) to prevent any unnecessary postponement of cases.

(3) The investigating officer in a sexual offences case must inform the complainant of the progress made in the investigation and prosecution of the case.

Basic requirements regarding special arrangements in respect of prosecutors

42. (1) The National Director of Public Prosecutions must ensure that an appropriate screening process is in place in order to identify timeously the cases to be tried by a designated court.

(2) A decision by a prosecutor not to prosecute a person on a sexual offences charge must be made at the earliest possible date.

(3) The withdrawal of any sexual offences case must be done at the earliest possible date to prevent an unnecessary postponement.

(4) No sexual offences case may be withdrawn without prior consultation with the complainant or his or her parent or guardian if the complainant is a minor or suffers from a mental disability.

(5) The National Director of Public Prosecutions must in the directives referred to in section 66(2) of the Act, set out guidelines for the prosecutors which must be followed before a decision is made not to prosecute a sexual offences charge or before the withdrawal of a sexual offences case.

(6) A prosecutor at a designated court must, in writing, in the docket give comprehensive and clear guidance to the investigating officer relating to the aspects to be investigated, the documents and statements to be obtained, the witnesses to be subpoenaed and any other matter relating to the case in order to ensure that the finalisation of the case is not delayed.

(7) A prosecutor at a designated court must consult with a witness before he or she testifies and ensure that the witness attends a court preparation session before he or she is consulted by the prosecutor.

(8) A prosecutor at a designated court must monitor a sexual offences case from the date of receipt of the docket until the case has been finalised, including the finalisation of any appeal process.

(9) For the purposes of sentencing, the prosecutor in a case of sexual offences must ensure that—

- (a) an impact statement has been obtained from a complainant; and
- (b) where appropriate, a Victim Impact Assessment Report from an expert witness.

(10) The allocation of prosecutors to a designated court must be done with due consideration to the following:

- (a) Some cases may require that more than one prosecutor works on the case; and
- (b) consultation with witnesses and in particular complainants and expert witnesses, may be required during court hours.

(11) Unless exceptional circumstances direct otherwise, the Senior Public Prosecutor or a prosecutor delegated by the relevant Director of Public Prosecutions must issue a certificate of readiness for trial and ensure that a charge

sheet has been completed before requesting a designated court to place a matter on the roll for trial.

(12) The prosecutor in a sexual offences case must inform the senior official in charge of the intermediaries at a designated court if an application is to be made in court in terms of section 170A of the Criminal Procedure Act.

Basic requirements regarding special arrangements in respect of legal practitioners

43. (1) The Chief Executive Officer of Legal Aid South Africa, appointed under section 15 of the Legal Aid South Africa Act, must designate a legal practitioner to every designated court in accordance with Legal Aid South Africa's court coverage plan.

(2) The designated legal practitioner at a designated court must ensure that an accused who is charged with a sexual offences case is granted the opportunity to apply for legal aid as soon as possible.

(3) The Chief Executive Officer of Legal Aid South Africa must ensure that—

(a) any application for legal aid is evaluated within seven working days of receipt thereof; and

(b) when legal aid is granted, a legal practitioner is assigned to the case.

(4) (a) The Board of Directors of Legal Aid South Africa, appointed under section 6 of the Legal Aid South Africa Act, must in the manual referred to in section 24 of that Act, include guidelines on how to deal with witnesses in sexual offences cases, which must be followed by legal practitioners who are employed in terms of section 4 of the said Act.

(b) The Chief Executive Officer of Legal Aid South Africa must ensure that the legal practitioners referred to in paragraph (a) and who represent accused persons in sexual offences cases acquaint themselves with the content of the manual.

(5) The Legal Practice Council, as defined in section 1 of the Legal Practice Act, 2014 (Act No. 28 of 2014), must sensitise legal practitioners, as defined in section 1 of the said Act, about the trauma experienced by witnesses of sexual violence and the effects of testifying in order to prevent secondary traumatisation of the witnesses.

Basic requirements regarding special arrangements for scheduling of sexual offences cases

44. (1) A case involving a sexual offence may only be set down for trial if the presiding officer in a sexual offence case is satisfied that the accused or his or her legal representative and the State—

(a) are ready to proceed with the trial; and

(b) are committed to the expeditious finalisation of the trial.

(2) A sexual offences case involving a child witness must be prioritised.

(3) A case involving a sexual offence may only be postponed on submission of proper motivation, and, if a postponement is granted, the reasons for the postponement must be recorded on the case record.

(4) All court functionaries are responsible for ensuring that cases involving sexual offences are finalised expeditiously and that delays are avoided.

Advanced requirements regarding special arrangements for scheduling of sexual offences cases

45. Subject to regulation 3(5), the heads of the various courts must consider the issuing of guidelines to the presiding officers relating to the setting down for trial of sexual offences cases for the purposes of regulation 44(1).

Basic requirements regarding special arrangements for cases of negligence by persons involved in proceedings

46. (1) The presiding officer must in writing report any negligence by—

(a) an investigating officer;

(b) a probation officer or other official in the Department of Social Development;

(c) an official in the Department of Health;

(d) a prosecutor;

(e) a legal aid practitioner; or

(f) any other official in the public service,

in the exercise of any duty conferred in terms of the Act or the Regulations or any other instrument made under the Act, to the person's supervisor.

(2) A supervisor who receives a report from a presiding officer in terms of subregulation (1), must ensure, where appropriate, that disciplinary steps are taken against the person reported, in accordance with the prescripts applicable to the person.

Basic requirements regarding special arrangements in respect of officials responsible for transporting accused persons to designated court

47. An official who is responsible for the transporting of a person accused of sexual offences to a designated court must—

- (a) check the identity of the person to be transported before leaving the premise of a prison or police cell; and
- (b) ensure that the person is transported timeously for purposes of the proceedings at the designated court.

Basic requirements regarding special arrangements in respect of probation officers

48. A probation officer must ensure that a report required from him or her in respect of a sexual offence case is available within the period required by any law or court order or, in the absence of such a period, within a reasonable period.

Basic requirements regarding special arrangements when dealing with witnesses

49. (1) The presiding officer, prosecutor and legal practitioner must, if an intermediary is not appointed in terms of section 170A of the Criminal Procedure Act, when interacting with a witness—

- (a) use simple vocabulary and avoid technical terms;
- (b) inform or explain to a witness any concept or question in a manner appropriate to his or her form of vulnerability, age, maturity and stage of development if the witness is a child;
- (c) give enough detail so that a witness understands the information conveyed to him or her;
- (d) allow sufficient time so that a witness can absorb the information conveyed to him or her;
- (e) allow a witness to ask questions;
- (f) elicit responses from a witness by asking questions in order to ensure that he or she understands the information conveyed to him or her;
- (g) ensure that the atmosphere is conducive to participation by a witness; and
- (h) be sensitive to the needs of a witness and the fact that he or she may be confused and may be experiencing anxiety and may feel intimidated.

(2) A witness must at all times be treated with care and understanding.

Advanced requirements regarding monitoring

50. (1) Subject to regulation 3(5), the heads of the various courts must put in place mechanisms to monitor the sentences imposed in sexual offences cases.

(2) The heads of the various courts must every six months consider the sentences imposed with a view to identifying patterns, if any, in the sentences imposed and make available these patterns to the presiding officers under their control in order to ensure consistency in sentencing.

(3) Each head of a Regional Office of the Department of Justice and Constitutional Development must, when preparing quarterly reports on the implementation of the Medium Term Strategic Framework of the Department, include in his or her implementation report, the statistics as determined by the Director-General in consultation with the National Director of Public Prosecutions and the Chief Justice relating to sexual offences cases.

(4) The Director-General, or a person designated by him or her, must as soon as possible after receipt of the reports contemplated in subregulation (3), consolidate the statistics in question and make them available to the Office of the Chief Justice and the National Director of Public Prosecutions for purposes of monitoring the effectiveness of the courts and addressing any challenge hampering the effectiveness of the courts.

(5) A data collection method to allow for the monitoring and evaluation of the courts' effectiveness in terms of this regulation must be established by the Director-General.

(6) Data collection and reporting in respect of persons with disabilities must be done separately.

Short title

51. These regulations are called the Regulations relating to Sexual Offences Courts, 2015.